

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Luke Petrinovic	Team: Squad #13	CCRB Case #: 201700168	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 01/04/2017 10:00 AM	Location of Incident: Inside § 87(2)(b)	Precinct: 75	18 Mo. SOL 7/4/2018	EO SOL 7/4/2018	
Date/Time CV Reported Mon, 01/09/2017 10:34 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 01/09/2017 10:34 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Jason Zummo	3905	939739	WARRSEC
2. DT3 Matthew Vorraro	771	939668	WARRSEC
3. SGT Patrick McGrath	04430	921557	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Jason Zummo	Abuse: DT Jason Zummo entered and searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.DT3 Matthew Vorraro	Abuse: DT Matthew Vorraro entered and searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
C.SGT Patrick McGrath	Abuse: SGT Patrick McGrath entered and searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)

### Case Summary

On January 9, 2017, § 87(2)(b) filed this complaint over the phone with the CCRB on behalf of his mother, § 87(2)(b). § 87(2)(b) did not personally witness the incident.

On January 4, 2017, at approximately 10:00 a.m., § 87(2)(b) was at her home, located at § 87(2)(b) in Brooklyn. The home is a two-story, one-family row house. § 87(2)(b) lives on the top floor with her younger son, and § 87(2)(b) lives on the first floor. They consider the first floor to be a separate apartment, but it is not officially designated as such and does not have its own apartment number.

There was a knock at the door, and § 87(2)(b) answered. Outside were three officers from the Queens Warrant Section: DT Jason Zummo, DT Matthew Vorraro, and SGT Patrick McGrath. The officers explained that they were there looking for someone and then allegedly walked into the house without asking permission (**Allegations A, B, and C**). Once inside, the officers explained that they were looking for a young woman named § 87(2)(b), for whom they had an arrest warrant. § 87(2)(b) explained that § 87(2)(b) was the daughter of § 87(2)(b)'s former girlfriend, and used to live on the first floor; however, she no longer lived there and was not there at the time. The officers conducted a search of the first floor, looking in areas where a person could conceivably hide. They did not find anyone, and left the home.

### Video Evidence

Video surveillance footage was provided by § 87(2)(b). It was taken from a surveillance camera outside § 87(2)(b)'s front door. The view faces the front door and also covers part of the porch. The footage is approximately six minutes long and there is no audio. The footage shows DT Zummo approach the front door to § 87(2)(b) and knock on the door. He continues to knock on the door and ring the doorbell for approximately three minutes before someone opens the door. This person is not visible in the footage. DT Zummo appears to speak with this person for one and a half minutes, at one point showing this person a picture. Eventually, DT Zummo began to step towards the door, which opened all the way. DT Zummo entered the home, followed by DT Vorraro and SGT McGrath (Board Review 13).



201700168\_20170131\_1021\_DM.mp4

The footage is consistent with the testimonies of both the officers and § 87(2)(b). § 87(2)(b) and it neither confirms nor disproves that consent to enter the home was offered or requested before the officers entered.

### Mediation, Civil and Criminal Histories

- As of May 3, 2017, no Notice of Claim related to this incident has been filed with the New York City Comptroller's office (Board Review 01).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint involving § 87(2)(b) or § 87(2)(b) (Board Review 04).
- DT Zummo has been the subject of 17 allegations of misconduct across nine prior cases during his eleven year tenure with the NYPD. Only one of these was an allegation of an improper entry, and it was exonerated. There have been no substantiated CCRB allegations against DT Zummo (Board Review 05).
- DT Vorraro has been the subject of seven previous CCRB allegations across four prior cases during his eleven year tenure with the NYPD. One of these allegations was substantiated, and it was an allegation of an improper entry. In case 201407210, DT Vorraro, who was looking for the subject of an arrest warrant, entered a home through the window. § 87(2)(g) The CCRB recommended a command discipline and the NYPD has yet to take disciplinary action in the case (Board Review 06).
- SGT McGrath has been the subject of four CCRB allegations across four prior cases during his 18 year tenure with the CCRB. Each of these allegations concerned an improper entry. Two of them were exonerated, one was unsubstantiated, and one was closed without an investigation (Board Review 07).

### **Findings and Recommendations**

**Allegation A – Abuse of Authority: DT Jason Zummo entered and searched § 87(2)(b) in Brooklyn.**

**Allegation B – Abuse of Authority: DT Matthew Vorraro entered and searched § 87(2)(b) in Brooklyn.**

**Allegation C – Abuse of Authority: SGT Patrick McGrath entered and searched § 87(2)(b) in Brooklyn.**

It is undisputed that DT Zummo, DT Vorraro, and SGT McGrath entered and searched § 87(2)(b). Some of the circumstances surrounding the entry are disputed. § 87(2)(b) stated that she spoke with DT Zummo when she opened the door. While remaining outside the front door, DT Zummo asked her about § 87(2)(b). § 87(2)(b) responded that § 87(2)(b) was the daughter of her son's ex-girlfriend, who once stayed at the home but had not done so for several years.

§ 87(2)(b) stated that, as they were speaking, DT Zummo noticed the door leading to a part of the home inhabited by § 87(2)(b) and stated that he was going to go knock on the door. § 87(2)(b) responded that § 87(2)(b) was not home. Then the officers walked through the front door and entered the residence. They never asked for consent to enter the home, and § 87(2)(b) never offered it. After knocking on the door and receiving no response, the officers entered § 87(2)(b)'s rooms and searched. They did not ask for consent to enter this area of the house, and § 87(2)(b) never offered it (Board Review 08).

DT Zummo (Board Review 09), DT Vorraro (Board Review 10), and SGT McGrath (Board Review 11) all gave reasonably consistent testimony about the incident. DT Zummo was assigned an I-Card identifying § 87(2)(b) as the perpetrator of a non-violent felony. After conducting criminal records searches, he discovered that she also had a bench warrant issued for

her in connection to an ongoing criminal case. Neither the bench warrant nor the I-Card mentioned § 87(2)(b) but the officers suspected due to record searches they conducted and by speaking to intimate associates of § 87(2)(b) that she lived there with her mother. An unidentified individual that resided across the street from § 87(2)(b) informed DT § 87(2)(b) who had shown him § 87(2)(b) photo, that he recognized her as someone that lived at the residence. § 87(2)(b) voluntarily invited the officers into the home after DT Zummo told her that he was a police officer there looking for someone.

Once inside, § 87(2)(b) gave inconsistent answers to the officers' questions, at first saying that she did not recognize § 87(2)(b) photo but then, after further questioning, identifying her and stating that she used to stay at the home, but no longer did. Noticing a door that led to a series of rooms occupied by § 87(2)(b) the officers asked § 87(2)(b) about it. She responded that she did not know whether anyone was there, but that the rooms belong to § 87(2)(b). She indicated that he was possibly home, by noting that the door to the laundry room had been left open, which she said usually happened only when § 87(2)(b) was home. The officers noticed the odor of marijuana emanating from behind the door, and heard movement inside the house, although they could not tell if it was coming from behind the door.

DT Zummo approached and knocked on the door, but there was no answer. After several minutes, DT Zummo and DT Vorraro opened the door, entered, and walked through several rooms to look for § 87(2)(b). They did not find anything, and left the apartment.

The video footage for the incident is consistent with the testimonies of both the officers and § 87(2)(b) it does not show whether § 87(2)(b) provided consent for the officers to enter the home.

It is well established by the courts that, absent a warrant authorizing their entry, officers may enter a residence if given consent. Once inside, officers may perform a protective sweep of a residence to check for additional persons inside, provided that they have a reasonable, articulable suspicion that the residence is harboring a person posing a danger to them. United States v. Fadul, F. Supp. 3d 270 (S.D.N.Y. Apr. 18, 2014) (Board Review 12).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

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Signature

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Date

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